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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 22nd March, 1975:—

BILL No. VII OF 1975

A Bill further to amend the Employees' State Insurance Act, 1948, and to incorporate an explantory provision connected therewith in section 405 of the Indian Penal Code.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Employees' State Insurance (Amendment) Act, 1975.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Amendment of section 2.

34 of 1948. **2. In section 2 of the Employees' State Insurance Act, 1948 (hereinafter referred to as the principal Act), in sub-clause (*b*) of clause (*9*), for the words "five hundred rupees" in both the places where they occur, the words "one thousand rupees" shall be substituted.**

Amendment of section 17.

3. In sub-section (*1*) of section 17 of the principal Act, for the words "with a maximum monthly salary of five hundred rupes and above", the words "the maximum monthly salary of which exceeds one thousand and two hundred rupees" shall be substituted.

Amendment of section 85.

4. In section 85 of the principal Act, for the words "he shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.", the following shall be substituted, namely:—

"he shall be punishable—

(*i*) where he commits an offence under clause (*a*), with imprisonment for a term which may extend to six months but—

(*a*) which shall not be less than three months, in case of failure to pay the employees' contribution which has been deducted by him from the employee's wages;

(*b*) which shall not be less than one month, in any other case,

and shall also be liable to fine which may extend to two thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgement, impose a sentence of imprisonment for a lesser term or of fine only in lieu of imprisonment;

(*ii*) where he commits an offence under any of the clauses (*b*) to (*g*) (both inclusive), with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.".

Insertion of new sections 85A, 85B and 85C.

5. After section 85 of the principal Act. the following sections shall be inserted, namely:—

Enhanced punishment in certain cases after previous conviction.

"85A. Whoever, having been convicted by a court of an offence punishable under this Act, commits the same offence shall, for every such subsequent offence, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both:

Provided that where such subsequent offence is for failure by the employer to pay any contribution which under this Act he is liable to pay, he shall for every such subsequent offence, be punishable with imprisonment for a term which may extend to one year but which shall not be less than three months and shall also be liable to fine which may extend to four thousand rupees.

Power to recover damages.

85B. (*1*) Where an employer fails to pay the amount due in respect of any contribution or any other amount payable under this Act, the Corporation may recover from the employer such damages not exceeding the amount of arrears as it may think fit to impose:

Provided that before recovering such damages, the employer shall be given a reasonable opportunity of being heard.

(2) Any damage recoverable under sub-section (*1*) may be recovered as an arrear of land revenue.

Power of court to make orders.

85C. (*1*) Where an employer is convicted of an offence for failure to pay any contribution payable under this Act, the court may, in addition to awarding any punishment, by order, in writing, require him within a period specified in the order (which the court may if it thinks fit and on application in that behalf, from time to time, extend), to pay the amount of contribution in respect of which the offence was committed.

(*2*) Where an order is made under sub-section (*1*), the employer shall not be liable under this Act in respect of the continuation of the offence during the period or extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may be, the order of the court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punishable with imprisonment in respect thereof under section 85 and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with.".

Insertion of new section 93A.

6. After section 93 of the principal Act, the following section shall be inserted, namely:—

Liability in case of transfer of establishment.

"93A. Where an employer, in relation to a factory or establishment, transfers that factory or establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the factory or establishment is so transferred shall jointly and severally be liable to pay the amount due in respect of any contribution or any other amount payable under this Act in respect of the periods up to the date of such transfer;

Provided that the liability of the transferee shall be limited to the value of the assets obtained by him by such transfer.".

Amendment of section 95.

7. In section 95 of the principal Act, in sub-section (4), for the words "or in two successive sessions, and, if, before the expiry of the session in which it is so laid or the session immediately following", the words "or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

Amendment of the First Schedule.

8. In the First Schedule to the principal Act, in paragraph 3, for the Table, the following Table shall be substituted, namely:—

"TABLE

Group of employees whose average daily wages are	Employees' weekly contribution (recoverable from employees)	Employer's weekly contribution	Total weekly contribution (employee's and employer's contribution)	Corresponding daily standard benefit rate
1	2	3	4	5
	Paise	Paise	Paise	Paise
1. Below Rs. 2	Nil	75	75	100
2. Rs. 2 and above but below Rs. 3	40	80	120	130
3. Rs. 3 and above but below Rs. 4	50	100	150	175
4. Rs. 4 and above but below Rs. 6	70	140	210	250
5. Rs. 6 and above but below Rs. 8	95	190	285	350
6. Rs. 8 and above but below Rs. 12	125	250	375	500
7. Rs. 12 and above but below Rs. 16	175	350	525	700
8. Rs. 16 and above but below Rs. 24	275	550	825	1000
9. Rs. 24 and above . .	375	750	1125	1500"

Amendment of Act 45 of 1860.

9. In section 405 of the Indian Penal Code, the *Explanation* shall be numbered as *Explanation* 1 thereof and after the *Explanation* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation 2.*—A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid.". 34 of 1948,

STATEMENT OF OBJECTS AND REASONS

The Employees' State Insurance Act, 1948, provides, *inter alia,* for certain benefits to employees in case of sickness, maternity and employment injury and for certain other matters in relation thereto. At present the Act covers employees whose wages do not exceed Rs. 500 per month. This limit is considered very low in the context of the current wage levels in various industries. The situation has become worse, as fresh increases in wages are being made on account of inflation. As a result, there are instances where most of the labour working in a factory falls outside the scope of the Act and loses the valuable benefits conferred by it. There have, therefore, been persistent requests for enhancement of the wage limit for coverage under the Act. The last increase in the wage limit was made when the Act was amended last in 1966. It is, therefore, proposed to raise the wage limit for coverage of employees from Rs. 500 to Rs. 1 000 per month so as to secure the benefits conferred by the Act to a larger section of the employees.

2. The working of the Act has revealed that the penal provisions in the Act are not effective in checking defaults in the payment of contributions. It is, therefore, proposed to impose enhanced and more deterrent penalties for defaults in the payment of contributions.

3. Opportunity is also being taken to amend the Act for the purposes mentioned below:

(*a*) The limit for creation of posts by the Employees' State Insurance Corporation without the sanction of the Central Government is being raised from Rs. 500 to Rs. 1,200.

(*b*) It is proposed to provide that the buyer or transferee of an establishment in respect of which dues payable under the Act are pending shall also be liable to pay those dues.

(c) The Table of contributions and benefits in the First Schedule to the Act is being revised, consequent on the raising of the wage limit from Rs. 500 to Rs. 1,000.

4. It is also proposed to clarify that any contributions deducted from the employees' wages by the employer under the Act shall be deemed to be entrusted to the employer within the meaning of section 405 of the Indian Penal Code

5. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
The 7th March, 1975.

K. V. RAGHUNATHA REDDY.

FINANCIAL MEMORANDUM

The Employees' State Insurance Act, 1948, applies to a number of Central Government undertakings.

2. Clause 2 of the Bill seeks to increase the wage limit for coverage of employees from Rs. 500 to Rs. 1,000 per month. This involves payment of contributions by employers (including Central Government) also in respect of employees who draw a monthly wage between Rs. 500 to Rs. 1,000.

3. Clause 8 seeks to substitute the existing Table in paragraph 3 of the First Schedule by a new Table which provides for rationalisation of the rates of contributions payable by employers and employees. These proposals in so far as they relate to the Central Government undertakings will involve increased expenditure from the Consolidated Fund of India.

4. The additional liability on account of inclusion of employees who draw monthly wages between Rs. 500 and Rs. 1,000 will, however, be off-set to the extent that with the rise in wage level, by and large, the original coverage of the Act will more or less be preserved. Further the employers will get relief from their liability in respect of employees under the Workmen's Compensation Act, 1923 and the Maternity Benefit Act, 1961. Moreover, many of the Central Government undertakings have been exempted from the operation of the Act under section 90 thereof since they provide benefits which are superior or substantially similar to those provided under the Act. However, as the Act is being extended to new areas from time to time and the number of undertakings and employees covered go on changing, it is not possible to give an estimate of the total additional recurring expenditure involved from the Consolidated Fund of India. However, the additional recurring liability of employer on account of rationalisation of the rates of contributions and additional coverage has been estimated at Rs. 17.53 and Rs. 16.44 per annum per existing employee respectively.

5. There will be no non-recurring expenditure.

B. N. BANERJEE,
Secretary-General.

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